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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAY 25 1995

OFFICE OF
SOLID WASTE AND EMERGENCY RESPONSE

Mr. William A. Spratlin, Director
Air, RCRA, and Toxics Division
EPA Region VII
726 Minnesota Avenue
Kansas City, KS 66101

Dear Mr. *Bill* Spratlin:

This is in response to your April 6, 1995 letter regarding the regulatory status of a gasification unit that Texaco proposes to build at its El Dorado, Kansas petroleum refining facility. We have decided to support your decision to concur with the Kansas Department of Health and Environment's proposed approval of a permit exemption for the facility. Our decision is related to the facts specific to this particular situation and should not be viewed as a determination that all gasification units are exempt from RCRA permitting requirements. The remainder of this letter is devoted to a discussion of the rationale for our position regarding the El Dorado facility.

Based upon our consultations with your office and with the state of Kansas and upon our April 12th meeting with representatives from Texaco (several of whom came in to meet with us the day after your letter arrived), OSW identified a need to clarify the regulatory status of the gasification unit that Texaco proposes to bring on-line at its El Dorado, Kansas petroleum refining facility. These clarifications focus on the three principal components of the gasification process, as proposed for this facility: (1) the regulatory status of the "syngas" created by the gasifier, (2) the status of the unit itself and (3) the use of RCRA-listed hazardous wastes as feedstocks for the gasifier.

The "Syngas"

The syngas produced by the gasifier in El Dorado would be exempt from RCRA regulation according to the provisions of 40 CFR §261.6(a)(3)(iv), which exempts "fuels produced from the refining of oil-bearing hazardous wastes along with normal process streams at a petroleum refining facility if such wastes result from normal petroleum refining, production, and transportation practices." Of course any residuals from the gasification process would need to be evaluated under 40 CFR §261 in order to determine whether or not they are subject to regulation as hazardous waste under RCRA.



The Gasification Unit

The unit that Texaco proposes to construct in El Dorado would also be exempt from regulation. In our judgement the gasifier would be an exempt recycling unit as provided for under 40 CFR §261.6(c)(1). Based on our analysis, the gasifier proposed for use at the El Dorado facility does not meet the definition of an incinerator, a boiler or industrial furnace, as defined in 40 CFR 260.10. Therefore, this unit would not be subject to the incinerator standards set forth in 40 CFR 264, Subpart O or the BIF standards set forth in 40 CFR 266, Subpart H.

The Feedstock

Based on your presentation, the feedstock to be used in the unit would include petroleum coke, other hydrocarbon streams and a number of RCRA-listed hazardous wastes, including: API separator sludge (K051), acid soluble oils (D001 and D018), primary sludges (F037) and phenolic residue (K022). Should the El Dorado store these materials on site for a period of greater than 90 days, the facility would be required to obtain a RCRA storage permit. If the materials are not stored at the facility for longer than 90 days, a storage permit would not be required, as provided for under 40 CFR §262.34.

If you have any further questions or require additional information, please contact Stephen Bergman of my staff at (202) 260-5944.

Sincerely,



Michael Shapiro, Director
Office of Solid Waste